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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,224

09/18/2006

Jens Wolber

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9934

278

7590

09/15/2008

MICHAEL J. STRIKER  
103 EAST NECK ROAD  
HUNTINGTON, NY 11743

EXAMINER

MCCALL, ERIC SCOTT

ART UNIT

PAPER NUMBER

2855

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/593,224	<b>Applicant(s)</b> WOLBER ET AL.	
	<b>Examiner</b> Eric S. McCall	<b>Art Unit</b> 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>Sep. 18, 2006</u> .   | 6) <input type="checkbox"/> Other: ____.                          |



**METHOD AND DEVICE FOR**  
**MONITORING A FUEL INJECTION DEVICE FOR**  
**AN INTERNAL COMBUSTION ENGINE**

**FIRST OFFICE ACTION**

**ABSTRACT**

The abstract of the disclosure is objected to because of the use therein of the legal phraseology “means”. Correction is required. See MPEP § 608.01(b).

**CLAIMS**

**35 U.S.C. § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Independent claims 1 and 7 set forth that signals of a misfire detection are evaluated but the claims are indefinite as to how or where the misfire detection originates.

Also, the meaning of the phrases “a response is implemented” in claim 1 and “implements a response” in claim 7 are indefinite as to the meaning thereof.

In claims 3 and 4, the phrase “the fuel pressure” lacks antecedent basis.

In claim 5, the phrase “an electrical fault” as used therein is indefinite.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsujimura et al. (7,243,532).

With respect to independent claims 1 and 7, Tsujimura et al. set forth a method for monitoring an injection device for an internal combustion engine, wherein,

by evaluating signals of a misfire detection, at least two malfunctions of an injection device are detected (a fuel injection quantity and cylinder air fuel ratio), and a response is implemented (increasing or decreasing a fuel injected quantity) depending on the malfunction that was detected.

With respect to claim 2, Tsujimura et al. set forth that by evaluating a fuel pressure (24), a check is carried out to determine whether there is a malfunction of the injection device.

With respect to claim 3, Tsujimura et al. set forth a fuel pressure sensor (24) and thus suggest that when a misfiring cylinder is detected and the fuel pressure has dropped below a threshold value, a mechanical malfunction of the injection device is detected.

With respect to claims 4 and 5, Tsujimura et al. set forth that if cylinders assigned to an output stage of the injection device misfire and the fuel pressure drops below a threshold value, an electrical malfunction of the injection device is detected (col. 6, lines 57-65).

With respect to claim 6, Tsujimura et al. set forth that depending on the malfunction, corrective action is taken wherein this corrective action is interpreted as the internal combustion

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engine being operated in a “limp-home mode” as claimed since the Applicant does not claim the meaning of a “limp-home mode”.

With respect to claim 8, Tsujimura et al. set forth the method of claim 1 being carried out by the ECU (40) of the engine and thus a computer program product with program code that is stored on a machine-readable data storage device as claimed.

#### **CITED DOCUMENTS**

The Applicant’s attention is directed to the enclosed “PTO-892” form for the prior art made of record at the time of this office action.

#### **CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Eric S. McCall/  
Primary Examiner  
Art Unit 2855